



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Declaration
2/11/03

In re the application of:

Serial No.: 08/930,584

Filed: February 2, 1998

Title: BIOLOGICALLY ACTIVE PEPTIDES
AND COMPOSITIONS, THEIR USE

Group Art Unit: 1654

Examiner: D. Lukton

DECLARATION UNDER 37 CFR 1.131

TO: Honourable Commissioner of Patents & Trademarks
Washington, D.C. 20231
USA

WE, RAYMOND ANDERSEN, JOHN COLEMAN, MICHEL ROBERGE and THERESA ALLEN declare as follows:

1. We are the co-inventors of claims 1-9 and 16-18 of the above-identified patent application. The latter claims are directed to a method for treating cancer by administering a compound of Formula I, as described in the application. Formula I, includes the compounds Hemiasterlin, Hemiasterlin-A, Hemiasterlin-B, and Criamide-B.

2. Prior to June 20, 1995, we made the invention as described and claimed in the subject application, in Canada (a NAFTA country) as evidenced by the following:

- (a) Prior to June 30, 1995, THERESA ALLEN, a declarant herein, tested the *in vitro* activity of Hemiasterlin, Hemiasterlin-A, Hemiasterlin-B and Criamide-B against several murine and human cancer cell lines and the *in vivo* activity of Hemiasterlin in mice injected with leukemia cells. In the testing conducted by THERESA ALLEN, the compounds were effective when administered

Declaration considered
-D. Lukton 8/26/03

directly to cancer cells and when administered to mice which contained leukemia cells.

- (b) Data derived by THERESA ALLEN from the above-described *in vitro* and *in vivo* testing was incorporated into a manuscript submitted for publication in *Tetrahedron*, prior to June 20, 1995.
- (c) The data concerning *in vitro* and *in vivo* testing was published in Coleman, J.E. et al. (1995) *Cytotoxic Peptides from the Marine Sponge Cymbastela sp.*; *Tetrahedron*, 51:10653-10662, a copy of which is attached hereto as Exhibit A. The publication shown in Exhibit A is substantially the same as the manuscript submitted for publication. The data pertaining to the *in vitro* and *in vivo* testing is set out at page 10660, second paragraph. The footnote appearing at the bottom of page 10662 of Exhibit A states that the material submitted for publication was "Received in USA 30 May 1995".

3. We declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such wilful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: _____

RAYMOND ANDERSEN

Date: April 9, 1999

John Coleman
JOHN COLEMAN

Date: _____

MICHEL ROBERGE

Date: _____

THERESA ALLEN



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Date: April 9/1999

R. n
RAYMOND ANDERSEN

Date: _____

JOHN COLEMAN

Date: APR 9 1999

Michel Roberge
MICHEL ROBERGE

Date: _____

THERESA ALLEN



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JOHN COLEMAN

- 3 -

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MICHEL ROBERG

Date:

April 8/99

T. Allen
THERESA ALLEN